

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BRENT NICHOLSON,)
Plaintiff,)
vs.)
RENESS YVONNE COPELAND)
CORMIER, ET AL.)
Defendants.)
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Civil Action No. 3:21-cv-459
Judge Campbell / Frensley
Jury Demand

ORDER

Pending before the Court is a Motion to Allow Discovery and Motion to Compel Early Mediation filed by several of the named Defendants in this matter. Docket No. 72. The Defendant, City of Clarksville has filed a response in opposition to the motion. Docket No. 79. The Court had expected to address this motion at the initial case management conference however, the conference has been continued to February 16, 2022. For the reasons set forth herein, the motion is **DENIED**.

Rule 26(d)(1) of the Federal Rules of Civil Procedure provides that a party may not seek discovery from any source before the Parties have conferred as required by Rule 26(f) except in cases exempted from initial disclosures, when authorized by the rules or stipulation or by court order. Fed. R. Civ. P. 26(d)(1). Rule 26(f)(1) requires that the Parties confer as soon as practicable but at least 21 days before a scheduling conference to develop a discovery plan. Fed. R. Civ. P. 26(f)(1). The instant motion asks that the Court allow the moving Defendants to participate in discovery in this matter prior to the entry of a scheduling order and to compel early mediation. Docket No. 72. In opposition, the Defendant City of Clarksville notes that there are

pending motions to dismiss raising, among other issues, claims of immunity and statute of limitations, and that mediation would be premature and unproductive at this point in the litigation. Docket No. 79.

Apart from the pending dispositive motions, the Court recently granted the Plaintiff's motion to reschedule the initial case management conference on the grounds that the Plaintiff has been unable to serve all of the defendants in this action. Docket No. 115. As a result, the initial case management has been continued and reset for February 16, 2022 at 9:30 a.m. *Id.*

In light of the service issues in this matter, it is clear to the Court that the Parties have been unable to develop a discovery plan as required by the Federal Rules of Civil Procedure. Further, to the extent that there are pending dispositive motions and any discovery would necessarily exclude at least one defendant in his action, it would not be appropriate to allow discovery to commence at this time absent some stipulation by the parties involved.

For the reasons set forth herein, the Defendants' Motion to Allow Discovery to Compel Early Mediation (Docket No. 72) is **DENIED**.

IT IS SO ORDERED.



JEFFERY S. FRENSLEY
United States Magistrate Judge